

[5th February 1934]

(After Lunch 2-30 p.m.)

IV—THE PERIYAR IRRIGATION TANKS PRESERVATION BILL
(BILL No. 16 OF 1933).

Clause 6—cont.

* Mr. V. T. ARASU:—"Sir, the hon. the Revenue Member and Mr. Venkatarama Ayyar have asked whether we are in a position to state any specific points on which fresh pleas might be raised on behalf of the proprietors. Sir, the shrewd lawyer that Mr. Venkatarama Ayyar is, he ought to know that it is impossible to anticipate in any particular case as to what particular pleas a party might raise or what pleas he may not raise. I would put him the question that he put to us whether in any case that he undertakes to conduct in a court of law he would be in a position to state even at the outset that he is going to raise only such and such pleas and to state them categorically as the Government and himself seem to ask us to do in this case. This is a new measure which the Government are enacting and nobody can anticipate as to what the effect of this measure is going to be. And therefore it would be impossible to anticipate also as to what sort of pleas it would open to the proprietors of the tank to raise when the matter comes up for disposal before the Collector. Neither the Government nor even Mr. Venkatarama Ayyar has made out any case as to how if this amendment is carried, it would prejudicially affect this legislation. Therefore, Sir, I think that this is a harmless amendment, an amendment which is not going to upset the scheme of this Bill. I would therefore urge this House to accept this amendment."

The amendment was put and lost.

Clause 6, as amended, was then put and carried.

Clause 7—First paragraph.

The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I beg to move—

'that in line 2 for the words "his enquiry", the words "the inquiry" be substituted,

'that in line 3 for the word "enquiry" the word "inquiry" be substituted,

'that in line 4 for the words "such enquiry" the words "such inquiry, if any" be substituted,

'that in line 4 for the words "confirm, cancel or modify" the words "pass a final order confirming, cancelling or modifying" be substituted, and

'that in line 5 for the word "his" the word "the" be substituted.'

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These are verbal and spelling amendments.

Mr. K. R. Venkatarama Ayyar seconded the motion.

The amendments were put and carried.

* Mr. V. T. ARASU:—" Mr. President, Sir, I move—

'that in clause 7 for the words "as he thinks fit," the words "and hear the parties and decide the various questions raised in the sub-clauses (a) to (d) of clause 6" be substituted.'

"Sir, having clearly laid down in four sub-clauses the pleas which a proprietor can raise, I feel it is not necessary that we should give a discretion to the Collector to say that he would admit only such pleas as he thinks fit. Therefore, Sir, this amendment seeks to omit the words 'as he thinks fit' and make it clear by substituting the words 'and hear the parties and decide the various questions raised in the sub-clauses (a) to (d) of clause 6.' This amendment is not going to cause any change in the meaning of the clause. It is only intended to clear the position and I therefore hope the Government will accept it."

Rao Bahadur P. C. Muthu Chettiyar seconded the amendment in Tamil.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, as the Mover said that the amendment is not going to have any effect, I do not see any reason for accepting this amendment."

The amendment was put and lost.

Clause 7.

First proviso.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move—

'that in the first line for the word "his", the word "the" be substituted.

'that in the third line after the word "appeared" the words "at the inquiry" be inserted, and

'that in the third line for the word "he" the words "the Collector" be substituted.'

The first and third are purely verbal amendments. The second refers to the non-appearance of parties at the inquiry and is intended to make that clear.

Mr. K. R. VENKATARAMA AYYAR seconded the motion.

The amendments were put and carried.

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Clause 7.

Second proviso.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move—

' that in lines 1 and 2 for the expression " clause (d) of section 6 " the expression " sub-clause (d) of clause (i) of section 6 " be substituted,

' that in line 2 for the word " his " the word " the " be substituted,

' that in line 5 the word " or " occurring after the word " law " be omitted, and

' that in line 5 for the word " or " a comma be substituted '."

These are all verbal amendments.

Mr. K. R. VENKATARAMA AYYAR:—" I second it."

The amendments were put and carried.

Clause 7, as amended, was then put and carried.

Clause 8.

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move—

' that in sub-clause (1) in line 1 for the word " his " the word " the " be substituted, and

' that in line 2 for the expression " order under section (5) " the words " preliminary order " be substituted '."

The first of these amendments is purely verbal. The second is merely to make it clear as to what order is referred to, namely, the preliminary order. The effect is purely verbal.

Mr. K. R. VENKATARAMA AYYAR:—" I second it."

The amendments were put and carried.

* Mr. V. T. ARASU:—" Mr. President, I move—

' that after the word " Government " insert the words " who shall give notice to the landholder or landholders concerned and after hearing any objections which may be put forward by the landholder or landholders pass an order confirming or qualifying the order of the Collector or send the same for a re-enquiry by the Collector '."

The sub-clause as it stands reads as follows:—

" If the Collector confirms or modifies his order under section (5), he shall report the matter to the Local Government who may cause to be carried out the measures specified in the order as confirmed or modified by him."

" If this sub-clause is adopted by the House as it is, the effect would be this: The Collector who is an interested party would report to the Government saying that he thinks that certain repairs are required for

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a particular tank. The Government, without giving an opportunity to the proprietor of the tank concerned and ascertaining from him his views, pass an order authorizing the Collector to carry out the works. It seems to me to be unfair that the Government should refuse to give an opportunity to the proprietor of the tank whose interest in the tank cannot be questioned to state his view-point. The object of my amendment is to lay down that before Government pass final orders on the Collector's report, they should inform the landholder or landholders concerned of what the Collector has to say, and ask what they have to say, and then pass an order confirming or qualifying the order of the Collector or send the same for a re-enquiry by the Collector. Sir, it would not be far wrong if one were to say that the Collector is usually guided by the subordinate officers, and that in some cases these subordinate officers are not guided by the highest of motives. The Government being the final authority, the proprietor of the tank ought to be given an opportunity to explain his objections so that injustice may not be done to him."

Rao Bahadur P. C. MUTHU CHETTIYAR speaking in Tamil seconded the amendment as follows:—

“தகரார் கேசில் மட்டும் கலெக்டருக்கு ஒரு விதமாக சபார்டினைட்டுகள் ரிப்போர்ட்டின்பேரில் தீர்மானித்துவிட்டால் அவரால் செய்யும் ரிப்போர்ட் ஒன் சயிட்டாகத்தான் இருக்கவேண்டும்.

“இப்பொழுதும் நீங்களை கவர்ன்மெண்டுக்கு . . . கேட்கட்டுமென்று ஒத்துக்கொள்ளும்போது பார்டிக்கு ஏன் தெரிவிக்கப்படாது எலிமென்டரி பிரின்சிபல் தானே.

“இந்த மாதிரி விஷயங்களில் அனேக இங்கிலீஷ் லா எத்தனையோ விதமாய் இருக்கிறதே.

“கலெக்டரவர்கள் முதலில் ஒருவிதமாக தீர்மானம் செய்துவிட்டால் அதை மாற்றிக்கொண்டார் என்பது அபூர்வம், தெரிந்தவரை இல்லை. பிடிவாதம் என்பது மனோநிலையை யுடையது.

* Mr. K. R. VENKATARAMA AYYAR:—“I think, Sir, that Mr. Muthu Chettiyar's point is that if there is the possibility of an order issuing against a concerned or interested party, such an order should not be issued without due notice to the party that might be affected. It is a very wholesome principle and lawyers especially would perfectly approve of such a principle finding a place in all pieces of legislation. But whether the present is an occasion in which that principle comes in for application is the real question. Under the scheme of this Bill the Government are not empowered to pass an order to the detriment of any landholder or landholders concerned. The enquiry is all before the Collector; the final order fixing up the plans and estimates and determining exactly what shall be the repairs to be carried out and apportioning also the cost of repairs which the various parties are liable to pay is also issued by the Collector. Afterwards, if the Collector makes a report to the Government, it is only with a view to the Government footing the Bill and issuing the necessary orders for carrying out

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the repairs. The Government cannot revise the order of the Collector in any manner which would work out to the injury of any landholder or landholders concerned. Therefore, there is no chance or opportunity for the Government to pass an order modifying the order of the Collector. That is what I meant when I said that there is no occasion for the application of the principle of not issuing an order against a party without giving him an opportunity to state his views. There is no occasion for that. Therefore, I think at the final stage when the Government comes into play there is no need for reopening the whole matter which has already been closed by the Collector's order and hearing parties, entertaining further objections and all that sort of thing."

* The hon. Sir ARCHIBALD CAMPBELL:—"I must oppose this motion because it is attempting to introduce a new principle into our form of administration. I do not know of any Act at the present time which requires His Excellency the Governor in Council to hear parties. Government always make enquiries through their officers. Any landholder will know when the Collector confirms or modifies his order under section 5 and know also when the case goes up to the Local Government for orders. It will be perfectly open to the owner of the tank to submit any memorial he wishes to the Government for their consideration. That is of course a quite different thing from laying on the Government the duty to invite objections and to hear parties. Further, we have given the Government no power to modify the Collector's order, because we feel it just that if there is to be a modification of the order there should be a re-enquiry in which all the parties concerned can be heard by the investigating officer. For these reasons I oppose the amendment."

The amendment was put and lost.

* Mr. V. T. ARASU:—"Sir, I move the following amendment:—

'Delete the words "who may cause to be carried out the measures specified in the order as confirmed or modified by him" and add "in every case in which the Local Government have modified or confirmed the order of the Collector, the Collector shall require the landholder or landholders concerned to state if they are willing to effect the repairs at a cost lower than that determined by the Collector and if the landholder or any of them is willing to undertake the repairs at a lower cost, the Collector shall make an order authorizing him to effect the repairs of the Government. If the landholder or none of the landholders is willing to undertake the repairs, the Collector shall report the same to the Local Government who may cause to be carried out the measures specified in the order as confirmed or modified by the Government.'

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"Every such decision of the Local Government shall be subject to the result of a decision in a civil suit instituted within a period of six months from the date of the service of the decision of the Local Government."

"Sir, it must be admitted that the Government are going to effect these repairs through the agency of contractors. It is a well-known fact that the works carried out by the contractors employed by the Public Works Department are haphazard, and at the same time are prohibitive from the point of view of ultimate cost. The prohibitive rates charged by the Public Works Department even for small works have been on several occasions commented upon by hon. Members of this House. When that is the fact and when the proprietor of the tank interested in maintaining his tank in good condition himself comes forward and says, 'I will effect the repairs that you may consider necessary under the supervision of the Public Works Department.' I fail to see why the Government should not give him an opportunity to do that. After all, the Government are not going to import any outside agency to carry out the repairs. It is the local contractor who will execute the repairs. When the proprietor of the tank offers to take the place of the contractor and work it out himself, why should Government stand in the way, and say that he cannot do it?"

"The second paragraph in the amendment merely provides for an appeal to the civil court, if necessary. We anticipate such appeals only in extraordinary cases. It is not in all cases that the proprietor of a tank would rush to the court and prefer an appeal against the decision of the Collector. The matter now under discussion is an interference with the private rights of parties and therefore the executive should not be made the final authority. Much has been said on the floor of this House from time to time about the separation of the Executive and the Judiciary. I ask, Sir, on this occasion whether this hon. House is going to acquiesce in a Collector being vested with both the Executive and Judicial functions? I believe not. Even in petty cases of encroachments, etc., appeal against the decision of the Collector lies to the aggrieved parties. Why then in this case, where the proprietary rights of individuals are concerned, there should be no appeal to a civil court? In the case of encroachments, when a Collector has given a decision recommending to the Government certain line of action the party affected can appeal to the civil court. He can get redress there. In cases of land acquisition also similar appeals are allowed. Why should, in this case alone, Government deny this elementary right?"

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the motion in Tamil speech.

"பிரைவேட் ரயிட்டில் இன்டர்பியர் சம்மந்தமானதால், என்ருரோச்மெண்டுக்கு கவர்ன்மெண்டு வரை பிரைவேட் சொத்தை எஜக்ஷன் விஷயத்தில் ஆறு மாதத் துக்குள் சிலிலுக்கு சூட்டு இருக்கிறது. சர்வே ப்வுண்டரி ஆக்டிலும் சிலில் சூட்டு இருக்கிறது. லாண்டு அக்விசேஷனிலும் சிலில் கோர்ட்டுக்கு இடமிருக்கிறது. இன்

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ஹும் அநேக விஷயம் சிவிலில் இருக்கிறது. கலெக்டரால் விதித்த தெண்டம் தீர்வைக்கும் சிவில் சூட்டு இருக்கிறது. ரயிலவே அபக்டிங் ஆக்டுப்படி நடப்படி கைக்கு சிவில் சூட்டு இருக்கிறது. அதின் அவசியத்தை பார்க்கிலும் இது முக்கிய மல்ல.

“ஒவ்வொரு சமயத்திலும் தெண்டம் தீர்வை சம்பந்தமாய் கர்னங்கள் செய்வதை தாசில்தார் பாஸ் செய்தும் அப்படியே கலெக்டரவர்கள் ஜமாபந்தி செய்து வசூலித்ததின் நியாயமும் அப்பால் கலெக்டர் அவர்களுக்கு சூட் நோட்டீஸ் கொடுத்து சிறிசில் பாகம் வாபஸ் கிடைப்பதும் உறிய நியாயங்களை கவனிக்கவேண்டியது.

“1933-ம் பசலியில் ஒரு அதிகாரியானவர்கள் இதற்குமுன் பெற்றிருந்த தண்ணீர் பெர்மிட்டுகளை ரத்து செய்திருப்பதாகவும் புதிய சர்வே நெம்பர்களை கண்டு வேரு உத்திரவு பெறுததால் தெண்டம் விதித்திருப்பதாக பதினாயிரக் கணக்கான தெண்டம் விதித்துவிட்டார். புதிய சர்வேயோ குடிகளுக்கு தெரியாது. கூடுமானவரை வந்திருக்கிற தண்ணீர் மனுக்கள் ஆயிரக்கணக்காக வந்திருப்பதற்கும் எக்ஸிகியூட்டிவ் இஞ்சினியர் உத்திரவு செய்யாது கட்டிவைத்து விட்டார். குடிகள் தெண்டங்களை கட்டிவிட்டார்கள். அநேகர்கள் நஷ்டமடைந்தார்கள். ரொம்ப கஷ்டப்பட்டு அவைகளில் சிலருக்கு மாறியது. பாதிக்குப்பாதி என்று கண்டிருக்கட்டு செய்து வில்லேஜ் ஆபீசர்கள் உதவியில் சிலருக்கு வசூலாயினதாக தெரிவிக்கிறார்கள்.

“ரெவினியூ போர்டு மெம்பருக இருந்த மிஸ்டர் எச். எப். பிள்யூ. ஜில்மேன் துரையவர்கள் பெரியார் விசாரணை செய்து கவர்ன்மெண்டாரவர்கள் நெ. 1524, 1915-ம் ஐன்ம் 30உ உத்திரவு பிறப்பித்திருக்கிறதை அனுசரித்து 1916-ம் வருஷம் கெஜெட்டில் பிரசுரமாயிருக்கிறது.

“அதாவது ஒருதலவை சாங்கிஷன் செய்தால் அந்த நிலத்துக்கு மருதடவை மறு சாங்கிஷன் தேவையில்லை என்று கண்டிருக்கிறது. அதற்கு நேர் விருத்தமாக நடந்தது.”

3 p.m. * Mr. K. R. VENKATARAMA AYYAR:—“Mr. President, Sir, I think the hon. Revenue Member has already indicated the exact scope of the jurisdiction of civil courts under this legislation. As he said, the Government are not authorized to pass any order, modifying or revising directly or indirectly the order of the Collector, to carry out a re-inquiry or re-investigation. Government merely carry out the works recommended by the Collector. If, for any reasons, the measures of repair recommended by the Collector are not executed, it will be open to the Collector to inquire into the matter and bring in such fresh consideration as may possibly be found to bear upon his proposals. But the amendment just now moved by Mr. Arasu and supported by Mr. Muthu Chettiyar asks Government to pass its own orders in modification or in supersession of the Collector's order, and even against the orders of the Government so passed, they want to provide for recourse to civil courts. Now this is a Bill providing for speedy repair of tanks. If, in this Bill, we introduce such a provision and make the ultimate decision of the question of repair dependent on the final verdict of the appellate civil court, then I submit it is a step towards defeating the very purpose of this Bill. After all, the matter dealt with in this piece of legislation is one of carrying out repairs, and so I feel it is better if the final voice is left with the Collector himself, he being in the district and he having no axe to grind. Hence I feel this amendment is

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unnecessary and unreasonable. Section 11 already provides for appeal to civil courts in certain cases and so I feel this amendment, if given effect to, would only defeat the object of the Bill. I feel the Collector is far more fitted to deal with this matter than any other authority, and so I am not for this amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I oppose this motion. The effect of the amendment would be to defeat the very object of the Bill; for it will lead to endless litigation and will involve delay in carrying out necessary repairs. Thus, instead of doing good to the ryot, the amendment would be only driving the landowner to the civil courts, and making him and the Government incur expenditure; and as far as I see, the only people to be profited by this amendment would be the members of the legal profession (laughter). So, Sir, I oppose the motion."

* Mr. V. T. ARASU:—"Mr. President, my hon. Friend, Mr. Venkatarama Ayyar, said that the Collector is best fitted to pass orders in this matter. Nobody ever questioned the fitness of the Collector to deal with such matters. I did not do so. All that I said was that all of us are subject to human frailty, and the Collector, being human, is likely to commit mistakes in the course of his official duty. Therefore it is that I suggested that provision should be made for a civil court to sit over the Collector's decision, in an atmosphere entirely different, and decide the matter dispassionately."

"In support of the statement that the Collectors do sometimes err, my hon. Friend, Mr. Muthu Chettiyar, has given two instances. One is an instance in which he himself was victimized; it would appear that in 1924, for a certain piece of land, which was irrigated by means, of a jungle rivulet, he was asked to pay Rs. 1,200; and he had to pay it. That was the Collector's order. But at a later stage the Collector was found to have erred and the money was refunded. And this is an instance of the infallibility of Collectors."

Mr. K. R. VENKATARAMA AYYAR:—"I fear you are wrong."

Mr. V. T. ARASU:—"At any rate the idea is that the Collector's order had to be revised at a later stage, either by the civil court, or by Government or by some authority, whoever it is. Anyhow the matter stands that the Collector had committed a mistake and it had to be rectified at a later stage."

The hon. Mr. P. T. RAJAN:—"No, no, he himself rectified it."

Mr. V. T. ARASU:—"The second case is a glaring one. It was a case of an order of the Board of Revenue thrown to the winds by the Collector. The order of the Board of Revenue is G.O. No. 1524, dated 13th June 1915. Mr. Gillman, it seems, was in charge of the Board of Revenue; and during his time the Government Order named above was passed, by which it was declared that fresh permits need not be taken by ryots for taking water out of the Periyar system. In fasli 1333,

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some ten years ago, a certain Collector who was in charge of the Madura district, held that fresh permits ought to be taken by the ryots. And when the matter went up to Government on appeal, they declared that the order of the Collector was wrong, and that G.O. No. 1524 of 1915 still held good. These are some of the instances where Collectors have erred, and therefore it is that I want that provision should be made for appealing against the decision of the Collector.

"As regards the first part of my amendment, I don't think the hon. Revenue Member has met my point."

* The hon. Sir ARCHIBALD CAMPBELL:—"I think I forgot to mention that it is always open to the proprietor concerned to take up the tender for repairs himself."

* Mr. V. T. ARASU:—"Yes, Sir, but what this amendment seeks to do, is to make it obligatory on the part of the Collector to ascertain first whether the proprietor himself is willing to undertake the repairs himself. Besides, I think the hon. Revenue Member is wrong in presuming that the proprietor can tender for the work. It is not all that can tender for Public Works Department works. Only those whose names are registered as contractors that can tender. Therefore it is not so easily done as the hon. Member would have us believe. Therefore the right thing would be for the Collector to give the first option to the proprietor. So I urge on the Government to accept the amendment."

The amendment was put and lost.

Mr. V. T. ARASU:—"Mr. President, Sir, I beg to move—

'to omit the words " (including the charges on account of establishment and tools and plant at such percentages on the actual cost of the work done as the Local Government may from time to time prescribe) " and after the words " shall be " insert the words " borne by the Government " and omit the rest of the sub-clause;

'or instead of sub-clause 8 (2) insert,

'(2) 5 per cent of the total costs of carrying out such repairs shall be paid by the landholder and the rest shall be borne by the Government.'

"Sir, the effect of this amendment is this: according to the sub-clause, as it stands at present, Government state that to the actual cost of repairs, a certain percentage ought to be added, and that is intended to meet the cost of supervision. This is commonly called centage charge, and this, according to the scheduled rates in force to-day comes to 16½ per cent or so.

"To put it in simple language, supposing the actual cost of a certain work comes to Rs. 100 the ultimate cost according to the Government calculation will be Rs. 116-8-0. I understand that this rate of centage

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charges has varied from time to time. Twenty years ago it was 5 per cent, gradually it came to $7\frac{1}{2}$ per cent, then 10 per cent and now it stands at $16\frac{1}{2}$ per cent. One does not know where it will stop. Perhaps to-morrow by an executive order the Government may say that 25 per cent should be collected. Therefore my submission is that centage charges ought not to be added to the actual cost of repairs. Government being a party interested in the bargain ought to undertake the supervision free of cost. If Government are entitled to supervision charges like the one as is suggested in the Bill, I would suggest that the landholder who is also interested in the bargain should be paid his supervision charges. The proprietor of the tank in the normal course of things would go round and inspect the work in progress. Should not his supervision charges also be added on to the actual cost?

“ Mr. President, this House would pardon me if I take it into the history of the Periyar system of irrigation. In the year 1896, when this irrigation system was inaugurated, Government definitely stated that this system was intended to benefit only the ryotwari areas. They said that if at any time should they have superfluous water, they would supply the same to zamindari and inam areas. This was further qualified, by the addition of the clause: at the specific request of the proprietor or proprietors as the case may be. Sir, Periyar water has been let into these proprietary tanks without the written consent of these landholders. That remains an undoubted fact. Even Mr. Twigg who was acting Collector of Madura then admitted that he had been letting water in the proprietary tanks without the consent of the landholder. It was later in the year 1904 that an attempt was made on the part of Government to legalize their trespass, if I may use that word, and to take written permission of these landholders. To-day the Government are irrigating 17,000 acres of dry lands and 15,000 acres of wet lands, totalling in all about 32,000 acres in the zamindari and inam areas by the water which is stored in the proprietary tanks. Government are now levying a water-rate, Rs. 5 for dry lands and Rs. 4 for wet lands. As has been admitted by the hon. the Revenue Member, Government have not all these years spent a single pie for the repairs of these tanks, and these tanks have been kept in a state of repair by the proprietor on his own initiative and at his own cost. Therefore it will be found that the Government have benefited to an immeasurable degree by the use of these proprietary tanks.

“ At an earlier stage of the debate it was stated by my hon. Friends, Messrs. Krishnayya Choudari and K. R. Venkatarama Ayyar, that whereas under the Estates Land Act, the landholder has to bear the whole cost, here he is asked to contribute only 50 per cent of the cost of repairs, to the extent of the proportion of the wet lands to the dry lands. There is a world wide difference between a tank repaired under the Estates Land Act and that repaired under the Periyar irrigation system. Under the Estates Land Act it is the ryot who has got to apply to the

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Collector in the first instance stating that the tank is in a state of dis-repair and that the supply of water to his (ryot's) lands is being threatened. At the instance of the ryot the Collector asks the zamindar whether he is prepared to execute the necessary repairs or not. In case the zamindar refuses, the Collector effects the repairs. Here the Government is a third party, the only two interested parties in the bargain being the ryot on the one hand and the landholder on the other. It is only where the landholder fails to effect the repairs, the Government intervene and carry out the repairs. Government are not at all interested in the work. But here under this Bill Government seek to effect repairs in order that their revenue may be augmented, or at any rate to see that their present revenue is not diminished. The income of the proprietor on the other hand is inelastic. Why should the proprietor be called up to contribute to an elasticity of the revenue of Government to an extent more than what he is bound to do if Periyar water had not been let in. It is patently unjust.

"Sir, the second portion of the amendment says that only 5 per cent should be paid by the landholder and the rest by the Government. The illustration provided in the Bill is utterly misleading. The illustration takes a case where there are 50 acres of dry lands which have been brought under wet cultivation, and only 30 acres registered as wet lands. From the list supplied to this House the other day I do not find even one case, out of 180 cases to which it refers, where dry lands cultivated as wet preponderate the registered wet lands to the extent portrayed in the illustration. So the illustration is entirely misleading. From the illustration it would appear that all that the proprietor is called upon to pay is three-sixteenth of the total cost or about 18 per cent. On a careful examination of the list supplied by Government the other day, you will find that nearly in all cases 50 per cent of the cost will have to be borne by the proprietors.

"From another point of view also I think the Government are not justified in asking the proprietor of the land to contribute 50 per cent of the costs. The Government are levying Rs. 4 per acre on wet lands, but the benefit to the landholder is very meagre. Sir, from a statement which I have got in my possession containing the rates of assessment in some of the zamindari and inam areas of the Madura taluk I find that the difference between dry rate and wet rate is not at all too much. On an average, the difference between dry and wet rates of all tarams of land, is about two rupees. Thus broadly speaking it can be stated that while the landholder is levying a water-rate of Rs. 2 per acre, the Government are levying a water-rate of Rs. 4 per acre. Therefore it would be patently unjust if Government should compel the landholder to contribute to the cost of repairs in any proportion higher than what two is to four. To put it in other words, it would come to this. If supposing the 'wet' portion of the cost of repairs amounts to Rs. 3,000, then, the Government should contribute Rs. 2,000, and the proprietor the remaining Rs. 1,000. This ratio would be the most equitable one

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from all view points. About the 'dry' portion of the cost there is no question at all. The entire portion of it will have to be borne by Government. For, the entire benefit of the dry-wet cultivation goes to Government."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in the following Tamil speech:—

3-30
p.m.

"சென்டேஜ் சார்ஜும் 100-க்கு 16½ இப்போது இருக்கிறது. இதானது முன் ரொம்ப குறைவாய் இருந்து சிறிதாக அதிகப்படுத்தி வந்திருக்கிறது. இன்னும் இஷ்டப்படி அதிகப்படுத்துவார்கள். மேலும் புரோப்பைட்டர்களும் தாங்கள் சூப்பரவைஸ் செய்யவேண்டி யிருக்குமாதலால் அவர்களுக்கும் சென்டேஜ் சார்ஜ் ஏற்படாததாலும் கவர்ன்மெண்டு லாபத்துக்கும் அவர்கள் அக்கரைக்கும் வேலை செய்யும்போது இதுவரை புரோப்பைட்டர்களுக்கு அவர்கள் கண்மாயில் பெரியார் தீர்வை வசூலித்து வந்ததற்கு யாதொரு பிரயோஜனமும் கவர்ன்மெண்டார் கொடாததினாலும் சென்டேஜ் சார்ஜ் எடுத்துவிடவேண்டும். இந்த சவு குடிகளுக்கும் பொருக்குமாதலாலும் இதை எடுத்துவிடவேண்டியது.

"பெரியார் ஆரம்பமாகும்போது அயன் கிராமங்களுக்கு முக்கியமாக உத்தேசித்ததாயிருக்கிறது. ஆதியில் 1896-ம் வருஷத்தில் பெரியாரை புரோப்பைட்டரி எஸ்டேட்டுக்கு விடும்போது டெம்பரவரியாய் மாமூல் நஞ்சைக்கு மட்டும் விட்டால், அப்படி விற்கிற காலத்திலும் லாண்டு ஹோஸ்ட்ருடைய கண்மாயின் பூரூ ஆயக்கட்டுக்கும் சப்ளை செய்யமுடியுமாவென்று பார்த்து சப்ளை செய்ய லாண்டு ஹோஸ்ட்ருடைய மனுவின்பேரில் சப்ளை செய்யவும் கலெக்டர் மிஸ்டர் ட்விக்கி ரிப்போர்டின்பேரில் கவர்ன்மெண்டார் G.O. நெ. 373, 1896-ம் (ஸ்) ஜூன்மீ 29-உயில் பிறந்திருக்கிறது. அப்படியிருந்தபோதிலும் லாண்டு ஹோஸ்ட்ருடைய மனுவில்லாமலும் ஜலத்தைவிட்டும் நஞ்சைக்கு மாத் திரம் கவர்ன்மெண்டு ஆர்டர் பிப்புவலிக்கப்பட்டிருந்ததில் அதற்கு விரும்பத்தக்க புஞ்சைக்கும் வழக்கத்தில் ஜலம்விட்டு யேராளமான புஞ்சைகள் நஞ்சை சாகுபடி ஆகி வருகிறது.

"1904-ம் வருஷ ஆரம்பத்தில் கவர்ன்மெண்டுக்கு கலெக்டர் புரோபோசல் அனுப்பியிருக்கிறார். அதிலும் ஏராளமான புஞ்சைகள், நஞ்சை சாகுபடியாய் கொண்டிருக்கிறது. அதற்கும் புரோப்பைட்டரிடத்தில் அபர்கேஷன் கேட்டு முன் நஞ்சைக்கு எப்படி மனு வாங்கியதோ அவ்விதம் வாங்கி தண்ணீர் சப்ளை செய்யலாம் என்றார்.

"1932-ம் பசுவியில் மனுவில்லாமல் 15,376 ஏக்கர் நஞ்சையும் 17,556 ஏக்கர் புஞ்சை வரவு நஞ்சையும் சாகுபடியானதாயிருக்கிறது. இதற்கு ஆதிமுதல் 1896-ம் வருஷ முதல் நானதுவரை சர்க்காருக்கு யாதொரு பணச்சிலவும் கிடையாது. வரவர மாமூல் நஞ்சையை காட்டிலும் புஞ்சை வரவு நஞ்சை அதிகரித்துவிட்டது. இதனால் அதிக வரவு கவர்ன்மெண்டுக்கு ஏற்பட்டுவிட்டது. புரோப்பைட்டர்கள் கண்மாய் ஜலத்தைத் தவிர வேறு காரணமில்லை. யாதொரு வாய்க்கால்கள், மண்கள் ஒன்றும் புதிதாக கட்டவில்லை. ஏற்படவில்லை.

"கிராமமாக சில வாய்க்கால்களில் சில தேக்கங்களில் சகஜமாய் அமைய வேண்டிய மடைகளிலிருந்து மாமூலாக கண்மாயிக்கு வரக்கூடிய ஓடையோ, மார்க்கங்களோ அதின் வழியாய் வந்துகொண்டிருக்கிறது. இவ்வளவு எதிர் பார்க்க முடியாத சாகுபடிக்கு காரணம் லாண்டு ஹோஸ்டர் பாங்குகளும் நல்ல கண்டிஷன்களில் இருந்தமையால்தான். இதுவரை சப்ளை சாகுபடி ~~செய்து~~ வந்திருக்கிறதென்றும் கவர்ன்மெண்டு எப்பவும் யாதொரு வஜாவும் செய்ய நேர்ந்ததில்லை என்றும் ஏற்படுகிறது. கண்மாய் ஜலத்தினால் சாகுபடியாகும் நிலங்களுக்கு யாதொரு தர வித்தியாசமின்றி நிரந்தர தீர்வை சர்க்கார் வசூலிக்கிறார்கள். இந்த அபிப்பிராயம் பில் ஆப் செட் ரீசனிலே இந்த பாசன ஏற்பாடு மிகவும் அபிவிருத்தி அடைந்திருக்கிறதாக கண்டிருக்கிறது.

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“இந்த ஸ்திதியை யோஜிக்கும்போது இப்போதுள்ள கண்மாயை மறுமத்து செய்யவேண்டுமென்று கேட்பது சர்க்காருக்கு இதுவரை புஞ்சையிலிருந்து கிடைத்திருக்கிற ஓர் தீர்வையை உருதிசெய்துகொள்ளவும் இதுவரை புரோப்பரைட்டர் செய்திருக்கிற ரிப்பேரை கொண்டும் இந்த ஆக்டு மூலமாக செய்யவேண்டியதாய்கொரும் ரிப்பேரைக் கொண்டும் இன்னும் ஏராளமான புஞ்சை நிலங்களை நஞ்சையாக சாகுபடிக்கு கொண்டுரை எண்ணத்துடனே ஏற்பட்டாக இருக்கிறது. புஞ்சை நஞ்சையினால் ஏற்படக்கூடிய ஏராளமான லாபத்தையும் கவர்ன்மெண்டே அடையக்கூடியதாயிருப்பதாலும் இப்பொழுது புஞ்சை சாகுபடிக்கு உத்தேசித்தே இந்த பில் கொண்டுரைப்பட்டிருப்பதாலும் பூரூச் சிலவும் கவர்ன்மெண்டே பொருக்கவேண்டும்.

“பெரியார் லேக்கிலிருந்து நெடுக வருகிறவாய்க்கால்களுக்கு மறுமத்து சில வுக்காக எந்த அயன் கிரமத்தார்களிடத்திலும் வாங்கவில்லை. இந்த புரோப்பரைட்டரி கண்மாய்க்குமட்டும் இதுவரை விட்டுக்கொடுத்த வந்த லாண்டு ஹோல்டர் கண்மாயின் அதிக பரப்பு காரணமாகவோ அல்லது அதற்கு வரும் அதன் காட்டாறு மீலவாரி வரத்துக்கள் அதிகரித்தோ அதினால் அதிக சாகுபடியாய் வந்திருப்பதின் பலன்களை சர்க்கார் அடைந்திருப்பதை தவிர அதற்குச் சரியாக லாண்டு ஹோல்டர் எந்தவித அதிக லாபத்தையும் அடையாதும் முன் இருந்த வரவு ஸ்திதியிலேயே இருக்க இப்போது லாண்டு ஹோல்டரை பொருக்கும்படி செய்வது தர்மமாகாது.

“கவர்ன்மெண்டாரும் இந்த கண்மாய்களுக்குத் தாங்கள் அடைகிற லாபத்துக்காக கண்டிரியியுஷனாக கொடுக்கிறார்களல்லாத வேறில்லை.

“கவர்ன்மெண்டு ஏதோ ஈவு கொடுப்பது நியாயமாய் அனுசூலமே. இதை ஆகேஷிக்க முயலலாமா என்று ஒரு கேள்வியாகலாம். தயவுசெய்து யோஜிக்க புரோப்பரைட்டர்கள் தங்களுக்கு வேண்டிய அளவு கெட்டியாயும் அமுத்தமாயும் செட்டாயும் சிலவு செய்து முடிப்பார்கள்.

“கவர்ன்மெண்டு இஞ்சினியர்கள் இஷ்டப்படிக்கும் ஷெடியூல் ரேட்டுப்படிக்கும் கண்டிருக்கட்டர்கள், சப்-கண்டிருக்கட்டர்கள் முதலிய பல விஷயங்களுள் பட ஷெடியூல் ரேட்டுக்கு அடங்கியதை எஸ்டிமேட்டு போட்டு ஏழையாயுள்ள புரோப்பரைட்டர்கள் தேவஸ்தானம் சர்விஸ் செய்யவேண்டிய ஏழை இனம்தார்கள் இவர்களிடம் பாதி கேட்பது கொஞ்சமும் பொருந்தாது.

“அன்னியில் ஒரு அளவில் செய்யவேண்டியவர்களுடன் கவர்ன்மெண்டு பெரிய அளவில் செய்ய யோசனையோடு வேலை செய்தால் அதற்கு வேண்டிய ஸ்ட்ரெங்த் பவுண்டேஷன் என்ன, அதுபோல மற்றவைகளையும் கணக்குசெய்து பெருந்துகையாக்கி அதில் ஈவுதானே புரோப்பரைட்டர்கள் இனம்தார்களிடம் கேட்டால் கணக்கு தானே என்று எண்ணலாமா.

“இந்த ஹவுசில் வருகிற ஹாரிசன் லஞ்சில் 50 பேருக்கு சொல்லிவிட்டு 20 பேருக்குள்ள ஈவு கொடு என்றால் கோமள விலாசத்தில் சாப்படுகிறதற்குக் கூட லாய்க்கில்லாத ஏழை இனம்தார்கள் புரோப்பரைட்டர்கள் ஹாரிசன், போசொட்டா விற்கு தயாராகும் சாப்பாட்டுக்கு ஈவு கேட்பது பொருந்துமா?

“மோட்டாரில் 5 மைல் போகவேண்டியவர்களான ஏழை இனம்தார் புரோப்பரைட்டர்களை 50 மைல் போகவேண்டுமென்றும் சிக்கு சிலுக்கு இல்லாது போக வேண்டுமென்று ரோல்ஸ்ரூயில் போனால் மைலுக்கு 8 அணை சார்ஜுக்கும் மைலுக்கு ரூ. 5 சார்ஜுள்ளதற்கும் ஈவு கேட்டால் ரூ. 2-8-0-க்கு பதிலாக ரூ. 25 கொடுக்கவேண்டி வரும்.

— “அன்னியில் அனுபவத்தை சொல்கிறேன். ஒவ்வொரு எஸ்டிமேட்டுகளும் ரிவைஸ்டு எஸ்டிமேட்டு இல்லாது முடிவடைகிறது அபூர்வம். ரிவைஸ்டு எஸ்டிமேட்டுக்கு விலங்கதை கிடையாது. வேலையை தொட்டு மாட்டிக்கொண்ட பிறகு ஏதாவது வகையாய்தான் தீரவேண்டும். மதுரை கலெக்ட்ரேட்டர் பதக்கப்பட்டம் நல்ல தேர்ச்சியுள்ள சரோப்பியனான கிராம்ப்டன் கம்பெனியார் கண்டிருக்கட்டு. நல்ல வேலை செய்தார்கள். கல்லடிக்கிற மாடுகள் ரூ. 350-க்கு குறைந்த

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ஜோடிகளிலில்லை. பவர் என்ஜின்கள் வைத்து வேலை நடத்தினார்கள். கவர்ன்மெண்டு எஞ்சினியருக்கும் ஏதோ தகவராவந்து ஹைகோர்ட்டில் சூட்டு போட்டார். அப்பால் ருஜியாகி தீர்ந்தது.

“இப்போது டிஸ்ட்ரிக்ட் போர்டாபீசு முதலில் ரூ. 1,10,000-க்குத்தான் எஸ்டிமேட்டு. பேசுமண்டபத்தில் கிராக்காய்விட்டது. எல்லா பெரியோர்களும் வந்து சீர்திருத்தி ரூ. 2,00,000 வரை நடைபெற்றிருக்கிறது.

“இதுபோல எத்தனையோ விஷயம் இருக்கிறது. இப்போது வந்திருக்கிற கடைசி காயிதத்தில் குறித்த அரியூர் மேலக்கண்மாயிக்கு நஞ்சை ஏ. 145-53 செண்டு போட்டிருக்கிறது. சுமார் ரூ. 380-400 தான் ஜமாவாகக்கூடியது. இதற்கு ஒரு எஸ்டிமேட்டு ரூ. 6,475-ம், செண்டேஜ் சார்ஜ் ரூ. 1,068-ம், ஆக ரூ. 7,543-க்கு 1931-ம் வருஷ ஆகஸ்ட் மாதத்தில் நோட்டீஸ் கொடுத்தார்கள். அதை ஆசேகரித்த மேல் ரூ. 1,420-க்கும், செண்டேஜ் ரூ. 235 ஆக ரூ. 1,655-க்கு 1933-ம் வருஷ டிசம்பர்மீ 6-வியல் மரு நோட்டீஸ் வந்திருக்கிறது. இதுபோல பல காரியங்கள் கலெக்டரவர்கள் செய்யும் உத்தரவுகளை அப்போதுக்கப்போது புரோப்பரைட்டர்கள் கீழ்படிந்து நடத்தி வருகிறார்கள்.

“கலெக்டரானவர் புரோப்பரைட்டர்களிடம் செய்யும் எந்த உத்தரவுக்கும் இதுவரை என் அனுபவத்தில் பெரும்பாலும் கட்டுப்பட்டு நடந்துவந்திருக்கிறார்களேயன்றி வேறில்லை. இதற்காக ஒரு சட்டமே தேவையில்லை. மதுரை ஜில்லா புரோப்பரைட்டர்களுக்கும் இனாம்தார்களுக்கும் வார சிஸ்டமில்லை. நீண்டகாலத்து வருஷங்களுக்குமுன் ஏற்பட்டிருந்த ரொக்க தீர்வை தாரணையைத் தவிர வேறு வரும்படியில்லை. அதாவது விஸ்டில் கண்டபடி ரொம்ப குறைந்த வீதமே.

“வில்லேஜ் ஆபீஸர் கண்ட்ரோல் இல்லை. காலம் ரொம்ப கஷ்ட நிலைமையில் இருக்கிறது. புதிய லோகல் போர்டு ஆகுப்படி செஸ்சுகள் அதிகம். கோர்ட்டு பீஸ் ஆகுப்படி ஸ்டாம்புகள் அதிகமாயிற்று. சிப்பந்தி சிலவு அதிகம்.

“இந்த பில் எஸ்டேட் லாண்டு ஆக்ட் திருத்துவதற்கு முன்னோசனை செய்தது. அப்பால் எஸ்டேட் லாண்டு ஆக்டு ரொம்ப பலமாய் திருத்தியும் இனாம்தார்கள் பரிமுதலாயிருக்கிறார்கள். இந்த சந்தர்ப்பத்தில் இந்த பளுவை சமத்த எண்ணுவது தர்மமல்ல.

“ஐதராலி என்ற ஓர் சாயபுடன் ஓர் விவகாரம் நடந்து வந்ததும் கவர்ன்மெண்டார் அனுசூலமாக காமப்ரமைஸ் செய்தோ பெண்டிக்கு இதற்குமுன் இந்த பில் யோசனை செய்த விஷயம்.”

* The hon. Sir ARCHIBALD CAMPBELL:—“The first point relates to the centage charges which cover the cost of the preparation of estimates and provision for the use of tools and plant and everything of that kind which cannot be included in the cost of the work done. The rate is re-examined from time to time to ensure that the centage is really what is necessary to cover the cost of expenditure on Public Works establishment and tools. There is no reason why other people should pay the cost of centage charges. Mr. Arasu pointed out that this Periyar scheme is intended to bring water to the ryotwari areas. As a matter of fact water has been supplied to various proprietary areas very much to the benefit of the proprietors. Although in many cases they did not ask for the supply by the lapse of time we must take it that their consent has been implied in the arrangements which have been made. It is too late for them to withdraw now. The system has been established on the assumption that the landowners desire to have their lands included in the ayacut. I would point out that, if the tanks had not been made part of the Periyar system, the landowners would have to maintain the tanks in proper order at their own cost entirely. That is their

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fundamental duty. The Estates Land Act provides that the ryots can compel the proprietors to maintain the tanks at their own expenses entirely. Under this Bill the Government propose to throw on the taxpayer of other districts a portion of the cost of repairs which ought really to be carried out by the proprietors themselves. This Bill does not provide for more than the actual restoring of the tank to efficiency without any further additions. I think, Sir, the financial assistance which Government propose to give under this Bill is very generous towards the owners of the tanks. It is quite possible for the owners to avoid any action being taken under this Bill when it is passed into law by simply carrying out their fundamental duty of keeping the tanks in proper order. By that means they will avoid the trouble and expense due to the enquiry being made by the Collector and the work being carried out under the supervision of the Public Works Department. This also meets the point that what the landowner gets from his wet land as the difference between the wet and the dry rates, is not so great as water-cess charged by the Government. It is not a question of how much each gets. We are relieving the zamindar of a portion of his liability and still he receives the same income. I suggested in the Select Committee that if the hon. Member, Mr. Muthu Chettiyar, would give up to Government all his tanks as they are and would convert the wet lands under them into dry lands, I should be very glad to take them over. Mr. Muthu Chettiyar obviously thinks that he is better off as he is, even if the Bill is passed into law as it is. In the case under the Railway Protection Act to which Mr. Muthu Chettiyar referred, the Executive Engineer determined what repairs the landowner should carry out to the tank but the Collector reduced the amount of the estimates which the Executive Engineer considered necessary. That only shows that the provisions of this Bill are not likely to lay an undue burden on the landowners affected. I beg to oppose this amendment."

The first part of the amendment was first put and lost.

The second part of the amendment was put and lost.

* The hon. Sir ARCHIBALD CAMPBELL:—"I beg to move—

'In line 4 of sub-clause 2 (a), for the expression "order under section 5 was issued," substitute the words "preliminary order was passed".'

"This is purely a drafting amendment, Sir."

The hon. Sir MAHOMED USMAN:—"I second it."

The amendment was put and carried.

* Mr. V. T. ARASU:—"I beg to move that—

'For sub-clause 8 (2) (b), substitute the following:—

"Then it shall be determined the total annual income during the three preceding faslis which shall have been received

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[Mr. V. T. Arasu]

by the landholder on the area for which the Government have levied water-cess for the use of the water so issuing at the rate prescribed for the irrigation with Periyar water of wet lands in whole inam and zamindari villages, and the total annual income which the landholder would have received if the abovesaid area were dry lands, at the rate at which similar lands in the same village have been assessed under the settlement, and find out the difference between the two amounts thus derived”.

“This is a point I mooted in the previous amendment. The wet rate collected by the landholder is evidently very low and in some cases 25 per cent of the water-rate collected by the Government. Therefore it is necessary and proper that the Government should take into consideration the actual amount the proprietor of the tank derives by way of quit-rent. That is the difference between the dry rate and the wet rate. If a particular piece of land has been dry he would have been receiving a fixed rate. Because it is classified rate he is receiving two rupees. Therefore the difference between the two is one rupee. In assessing the share this must be taken into consideration.”

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in Tamil.

* The hon. Sir ARCHIBALD CAMPBELL:—“Sir, this motion is entirely 4 p.m. inconsistent with the principle of the Bill, namely, to divide the cost of the works without any complicated enquiry for the reason it is not proposed that it should depend on the income derived by the proprietor from the tank. We have aimed, as I have said before, at as simple a procedure as possible, which is also fair to all the parties concerned.”

The amendment was put and lost.

* The hon. Sir ARCHIBALD CAMPBELL:—“I beg to move—

‘that in the proviso to sub-clause 2 (b)—

“(a) in lines 1 and 2, for the expression ‘clause (d),’ the expression ‘sub-clause (d) of clause (i)’ be substituted; and

(b) in line 4, after the word ‘Collector’s,’ the word ‘final’ be inserted”.

Both these amendments are drafting amendments.

The hon. Sir M. KRISHNAN NAYAR:—“I second it.”

The amendments were put and carried.

Mr. V. T. ARASU:—“Mr. President, I beg to move—

‘that in sub-clause (c) of clause 2 . . .’

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* The hon. Sir ARCHIBALD CAMPBELL:—" May I ask if the amendment ^a is in order? Is it not consequential to the amendments rejected by the House? "

* The hon. the PRESIDENT:—" Has the hon. Member anything to say as to how it is relevant to this? "

Mr. V. T. ARASU:—" I do not move it, Sir."

* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move—

that in illustration No. 1 under clause 8 (2) (c), in line 6 for the expression " order under section 5 is issued " the words " preliminary order is passed " be substituted '.

" This is another drafting amendment.

The hon. Sir M. KRISHNAN NAYAR:—" I second it."

The amendment was put and carried.

* Mr. K. R. VENKATARAMA AYYAR:—" I beg to move—

that in illustration No. 4, under clause 8, in lines 9 and 10, for the words " average area lying within their estates " the words " areas lying within their respective estates " be substituted.'

" This amendment is necessary since there is no question of average at all entering in this case as the whole ayacut is under irrigation."

The hon. Sir ARCHIBALD CAMPBELL:—" I second it."

The amendment was put and carried.

Clause 8, as amended, was put and carried.

Clause 9.

* Mr. V. T. ARASU:—" Mr. President, with your permission, I should like to move the amendment of which I have given notice in a slightly different form, as an earlier amendment to which it refers has been rejected by this House. The amendment would read as follows:—

' For the words " specified instalments " substitute the words, " annual instalments of amount which is not greater than the amount collected by the landholder as rent on land registered as wet under the tank minus the rent payable on those lands if they were registered as dry " . '

^a Mr. V. T. ARASU:—

Insert the following as sub-clause 8 (2) (c):—

" Each landholder concerned shall bear such proportion of the said total costs as the amount derived according to sub-clause 8 (2) (b) bears to the total annual income derived by the Government in the area determined under clause 8 (2) (a). Provided that in cases falling under clause (d) of section 6, the liability of the landholder concerned shall to the extent specified in the Collector's order under section 7 be borne by the persons and in the proportion specified in such order '.

and re-number sub-clause (c) as sub-clause (d).

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* The hon. the PRESIDENT:—"It is very difficult to follow if such long amendments are brought forward all on a sudden. The hon. Member may move it and explain the position clearly."

* Mr. V. T. ARASU:—"Sir, as I have already pointed out this change is necessitated on account of the fact that a previous amendment to which the present one refers, has been thrown out."

"Sir, I move my amendment. The object of my amendment is this: No instalment which the Collector may order the proprietor of a tank to pay should exceed the amount that he is actually getting by way of water-rate from out of the ayacut under the tank. Let me take a concrete example. For instance, take a tank with an ayacut of 50 acres registered as wet. Assume for the sake of argument that the total amount of revenue collected by the landholder in respect of the 50 acres is Rs. 100 and that the dry rate for similar lands situated in a neighbouring village is Re. 1 per acre. The difference between the amounts derived according as the rate is a wet rate or a dry rate, is Rs. 50. All that the amendment seeks to effect is that in no case, should a single instalment ordered by the Collector be greater than this Rs. 50. Suppose the total cost of the repair comes to Rs. 10,000. If the Collector orders that this Rs. 10,000 should be paid in four monthly instalments of Rs. 2,500, it would be absolutely impossible for many proprietors to fulfil the obligation. Therefore my amendment lays down that it shall be obligatory on the part of the Collector to collect the amounts due from a landholder only in annual instalments and that no one of those instalments should exceed the amounts that the landholder actually gets as wet rate (the difference between dry and wet lands of the same taram) for lands registered as wet under that tank."

"This suggestion is not my own, Mr. President. For this, I have the support of no less a person than Mr. Hall, who was appointed Special Officer to go into this question. At page 19, paragraph 4, sub-paragraph (3) of his report, Mr. Hall clearly lays down:

'The cost of the repairs executed by the Collector may be collected from the proprietor in annual instalments equal to the difference as determined by the Collector between the amount which is payable to the proprietor as rent on land registered as wet under the tank and the amount which would be payable as rent on those lands if they were registered as dry.'

"Mr. Hall is definite about the matter. He definitely says that the Government would not be justified in asking the proprietor of a tank to pay the cost of the repairs of the tank in heavier instalments than what he is actually getting out of the land. I feel, Sir, that no further words are required from me to commend this amendment to the acceptance of the House."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in Tamil as follows:—

"ஸ்பெஷலாயிசர் மிஸ்டர் ஹால் துரையவர்கள் இந்த அபிப்பிராயத்தை ரிப்போர்ட்டில் சொல்லியிருக்கிறார்.

[Mr. P. C. Muthu Chettiyar] [5th February 1934]

“லாண்டு ஹோல்டருக்கு வரும் வரும்படியில் பேஷ் கிஸ்தி குமாஸ்தா வகையுறு சிலவு, கோர்ட்டீஸ், ஸ்டாம்பு சிலவு, ஸ்டேஷனரி நிலுவை சேதம் வேறு இருக்கிறது. லோன்ஸ்கள் சர்க்காரில் கொடுப்பதுக்கும் இன்ஸ்டால்மெண்டாக வாங்குகிறார்கள்.

நஞ்சையில் வரும் பூறு தீர்வையில் பேஷ் கிஸ்தி நீக்கி பாக்கியை செலுத்தும் படியாவது செய்யலாம்.”

* The hon. Sir ARCHIBALD CAMPBELL:—“ Sir, the Mover of this amendment has quoted from Mr. Hall's proposals. If he would read the whole of the paragraph to which he has referred, he would find that, according to Mr. Hall's proposal, there is laid on the landholder the duty of paying the whole cost of the repairs, whereas under our scheme we propose to defray a portion of it. The proposals now put forward in this amendment will again involve us in another complicated procedure. It seems to me that it is better to leave the question in the hands of the Collector. We may trust the Collector not to fix any unreasonable amounts.”

The amendment was put and lost.

Clause 9 was put and carried.

Clause 10 was put and carried.

Clause 11.

* Mr. V. T. ARASU:—“ Sir, I beg to move the following amendment:—

“ For the word and figure “ section 9,” substitute the words and figures “ section 8 or 9 ” and add the following new sub-clauses:—

“(d) That the tank does not require any repairs;

(e) that measures other than those decided by the Collector and the Local Government would be sufficient for repairs of the tank and its restoration to efficiency ”.”

When I moved an amendment to clause 6 that the words ‘ any other plea ’ may be added, my hon. Friend, Mr. Venkatarama Ayyar, objected on the reason that I should be specific and that room should not be allowed for all possible pleas to be raised. The amendment here seeks to lay down two pleas which shall be open to the landholder to raise whenever a suit is filed in a Civil Court. It must be admitted on all hands that the addition of these two sub-clauses would not in any way complicate matters as the hon. the Revenue Member has too often been using those words. I hope he would not come forward and say that this amendment would complicate matters. We are specific about it. It should be open to the proprietor of the tank to raise these two pleas. The Government would not in any way be affected by accepting this amendment.”

Rao Bahadur P. C. MUTHU CHETTIYAR seconded it in Tamil.

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* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I must oppose the amendment. If this proposal is adopted, there would be delay in carrying out the repairs. We consider that these are matters which can well be settled by the Collector of the district. The Collector would be able, after receiving the orders of the Government, to see that the repairs are carried out. If this amendment is carried, he will not be able to carry out the repairs; he will have to wait till the Civil Court has decided the case which may be brought under this amendment. We have provided in the Bill that the Civil Court might decide the question of the portion of the cost to be paid by the landholder and whether the repairs should be carried out at the cost of some other person according to law, local custom or contract and the Civil Court cannot decide on the necessity for the execution of the repairs."

The amendment was put and lost.

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I beg to move the following amendment:—

'In line 2 of the proviso to clause 11 (1), for the words "an order," substitute the words "a preliminary order" and omit the comma.'

This is merely a drafting amendment as we have already provided for a preliminary order under section 5."

Mr. J. A. THORNE:—"I second it."

The amendment was put and carried.

The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I beg to move the following amendment:—

'After the expression "section 6" at the end, add the words and figure "or section 7".'

This amendment is intended to cover cases which had been adjourned after the enquiry was begun."

Mr. J. A. THORNE:—"I second it."

The amendment was put and carried.

* Mr. V. T. ARASU:—"Sir, I beg to move the following amendment:—

'To the proviso to clause 11 (1), add the following:—

"But he shall be allowed to institute the suit if he satisfies the Court that he has been prevented by sufficient cause from raising the aforesaid grounds before the Collector."'

Under clause 11 in certain cases the landholder or the proprietor of the tanks, as the case may be, may file a suit in a Civil Court against the decision of the Collector. Subject to certain reservations he may file a suit. What is sought to be done by this amendment is that the

[Mr. V. T. Arasu]

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landholder shall be at liberty to raise fresh pleas also before the Court, pleas which were not raised by him before the Collector. This is an amendment which ought to be accepted."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in Tamil.

* The hon. Sir ARCHIBALD CAMPBELL:—"I think, Sir, that there is not sufficient reason for accepting this amendment. The landholder has ample opportunities of raising objections that he is not the landholder of the estate in which a tank is situated and that according to law, local custom or contract, the repairs should be carried out by some other person. It seems to me that these are pleas which ought to be raised in the first instance before the Collector and if they were not raised, they should not be raised before the Civil Court."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"Sir, the provisions of the Bill provide for the filing of a suit in a Civil Court. I do not see any reason why the person filing a suit in a Civil Court should be precluded from raising all legal objections. So far as the Bill is concerned, no doubt a small remedy is provided for taking certain objections that he is not the landholder or that the repairs should be carried out by some other person. If this amendment is not carried, the landholder must, at the first instance itself, consult the best vakil, find out all possible objections that could be urged at any time, come before the Collector and file his application. I take it that the objections that should be raised before the Collector should be practical objections and not technical or legal objections. The landholder is expected to go to the Collector and point out the practical difficulties. Having failed with the Collector, when once the matter goes to a Court, it must be open to him to raise all sorts of legal objections. Otherwise the Government would be driving the landholder to consult the best Advocate-General before he goes to the Collector and raise his objections. I think the landholder should be allowed to go to the Collector and put forward his own point of view. If he fails with the Collector, he should go to Court and he must be allowed to raise such objections as are likely to be necessary and as are advised by his legal advisers. To say that only the two pleas referred to should be raised would be to take away practically a valuable right. I do not think there is anything in this Bill which makes it necessary that the party, when he goes to the Collector, should raise all objections that will have to be raised in a Civil Court. Even Civil Courts allow time to file fresh issues. You go to the Collector; you prefer some objections; he may regard them or he may not regard them. If the Collector decides against him, it must be open to the landholder to raise all objections as are suggested by the best legal adviser. Even in Civil Courts, time is allowed for filing of fresh objections. I think it would be very undesirable that the Collector should be constituted as an authority much higher than the Civil Courts; parties should be entitled to raise all sorts of objections before the Civil Court."

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The amendment was put and declared lost.

A poll was demanded by Mr. Basheer Ahmed Sayeed and the House divided thus:— 4-30 p.m.

Ayes.

- | | |
|---|--------------------------------------|
| 1 Mr. Yakub Hasan. | 10 Diwan Bahadur B. Muniswami |
| 2 „ K. R. Venkatarama Ayyar. | Nayudu. |
| 3 Khan Bahadur Schammad Sahib Bahadur. | 11 Mr. P. V. Krishnayya Choudari. |
| 4 Mr. V. T. Arasu. | 12 „ J. Kuppuswami Choudari. |
| 5 „ A. B. Shetty. | 13 „ Mahboob Ali Baig. |
| 6 Khan Bahadur Khalif-ul-lah Sahib Bahadur. | 14 Rai Sahib C. Kolanda Reddi. |
| 7 Rao Bahadur P. C. Muthu Chettiyar. | 15 Mr. C. R. Parthasarathi Ayyangar. |
| 8 Mr. Basheer Ahmed Sayeed. | 16 „ G. R. Premayya. |
| 9 „ K. A. Nachiyappa Gounder. | 17 „ K. Pattabhiramayya. |
| | 18 „ K. Koti Reddi. |
| | 19 „ G. Lakshmana Reddi. |

Noes.

- | | |
|--|---|
| 1 The hon. Sir Mahomed Usman. | 19 Rao Sahib V. I. Muniswami Pillai. |
| 2 „ Diwan Bahadur Sir M. Krishnan Nayar. | 20 Mr. M. Vedachala Mudaliyar. |
| 3 „ Sir Archibald Campbell. | 21 „ B. P. Sesha Reddi. |
| 4 „ Sir Hopetoun Stokes. | 22 „ G. Sriramulu. |
| 5 „ Diwan Bahadur S. Kumaraswami Reddiyar. | 23 „ P. V. Rajagopala Pillai. |
| 6 „ Mr. P. T. Rajan. | 24 „ V. G. Vasudeva Pillai. |
| 7 Mrs. K. Alamelumangathayaramma. | 25 „ P. Bayappa Reddi. |
| 8 Diwan Bahadur V. N. Viswanatha Rao. | 26 Khan Bahadur T. M. Moidoo Sahib Bahadur. |
| 9 Mr. J. A. Thorne. | 27 Rao Sahib V. Dharmalingam Pillai. |
| 10 „ H. M. Hood. | 28 Rao Bahadur D. Krishnamurti. |
| 11 „ R. Madanagopal Nayudu. | 29 „ P. Subrahmanyam Chetti. |
| 12 „ E. Conran Smith. | 30 The Zamindar of Kirlampudi. |
| 13 „ T. Sundara Rao Nayudu. | 31 Diwan Bahadur A. Appadurai Pillai. |
| 14 „ G. Ranganatha Mudaliyar. | 32 Rao Sahib Pandit Ganala Ramamurti. |
| 15 „ M. Devadasan. | 33 Mr. A. Ramakrishna Reddi. |
| 16 Rao Sahib N. Siva Raj. | 34 Rao Bahadur C. Natesa Mudaliyar. |
| 17 Subadar-Major S. A. Nanjappa Bahadur. | 35 Mr. C. Basu Dev. |
| 18 Rao Bahadur R. Srinivasan. | 36 Rao Sahib D. V. Narasimhaswami. |

Ayes 19. *Noes* 36.

The amendment was lost.

* Mr. K. R. VENKATARAMA AYYAR:—“ I move—

‘ In clause 11, sub-clause (2), proviso, in line 4, for the words and figure “ the proviso to section 6,” the words and figure “ second proviso to section 7 ” be substituted ’.

Sir, it is mere drafting amendment. I think by mere oversight, the Drafting Department overlooked the fact that, what was section 6 before, has now come to be numbered as section 7.”

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* The hon. Sir ARCHIBALD CAMPBELL:—" May I suggest a small modification of the amendment, in this way:—

' In clause 11, sub-clause (2), proviso, in line 4, for the words and figure " in the proviso to section 6 " the words and figures " in section 6 or section 7 " be substituted '.'"

* The hon. the PRESIDENT:—" Is Mr. Venkatarama Ayyar withdrawing his motion? "

Mr. K. R. VENKATARAMA AYYAR:—" I am adopting the suggested correction in my amendment."

* The hon. the PRESIDENT:—" Then the hon. Member may move it."

* Mr. K. R. VENKATARAMA AYYAR:—" Sir, I move that in the proviso to sub-clause (2) of clause 11, for the words and figure ' in the proviso to section 6 ' the words and figures ' in section 6 or section 7 ' be substituted."

The hon. Sir ARCHIBALD CAMPBELL:—" I second it."

The amendment was put and carried.

Clause 11, as amended, was put and carried.

Clause 12.

* Mr. V. T. ARASU:—" Mr. President, Sir, clause 12 runs thus:—

' Whenever it appears to the Collector that any tank is in such a state of disrepair as to be in imminent danger of breaching, he may by summary order cause to be carried out the measures of repair which in his opinion are necessary to prevent the tank from breaching and shall without delay inform every landholder and other person concerned of the action which he is taking. The provisions of this Act shall thereupon apply as though such repairs had been ordered to be executed by the Local Government under section 8.'

" I move—

' that this clause be omitted altogether.'

" Provisions have been made in this Bill to carry out repairs as expeditiously as possible, and in view of that, it is not known why this clause 12 finds a place here. If this clause is allowed to remain as it is, the whole purpose of this Bill would be defeated and the proprietor of a tank would be entirely at the mercy of the Collector and the Collector for the time being would get over all the procedure laid down under this Bill by taking action under this clause. This is the danger of leaving this clause as it is. As my hon. Friend, Mr. Muthu Chettiar, pointed out in an earlier speech of his, this clause is like a pinch of poison added to a cup-full of milk. Therefore I move that this clause be omitted."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the motion in the following Tamil speech:—

இந்த பில்லில் ரோட்சில் ரயில்வே பாதுகாப்பு ஆக்ட் 1886-ம் வருடத்திய 4-வது ஆக்ட் 11-வது பிரிவுப்படி இதில் சொல்லியிருப்பதாக செர்க்கிரூர். ரயில்வே சந்தர்ப்பம் பெரியாருக்கு யோசிக்கத்தக்கதில்லை.

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* The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I must oppose this motion. This clause is most necessary, especially in cases of emergency which we all know arise from time to time owing to heavy rainfall or cyclones, floods and other catastrophes of that kind. My attention was drawn by the Collector to the fact that in 1932, owing to heavy rains, a certain tank breached and it could not be repaired at once and the result was that the right bank of the third branch channel was breached. That could possibly have been avoided if the Collector had had power to carry out urgent repairs. For these reasons, I oppose this amendment."

Mr. BASHEER AHMED SAYEED:—" Sir, the reasons given by the hon. the Revenue Member are not at all convincing. If the Act is going to be worked in the manner in which it is intended to be worked, then there shall be no emergent cases arising at all. If the executive officers are keeping in close touch with the existing state of affairs as they obtain from year to year and from period to period, and if under section 8 orders have been passed for repairing the tanks from time to time, I do not think there is any need for this clause 12. If there is an emergency, that emergency ought not to have been allowed to arise. The hon. the Revenue Member stated that floods will come and the tanks will breach. These floods are not an every-day occurrence, and only such of the tanks as have not been kept in proper repair are likely to cause any breach; otherwise, if the Collector is prompt in his duties, or for the matter of that, if his subordinates are keeping themselves in close touch with the conditions of the tanks, there could be no emergency at all. If the minor irrigation officers have not attended to the tanks for years together, if kudimaramat has not taken place and if unusual floods come, then only the tanks will breach. On the other hand, if this Act is going to be worked earnestly, from year to year and from month to month, if there is going to be supervision over the existing tanks, such an emergency provision is unnecessary and uncalled for. Besides, this provision nullifies the effect and the principle involved in the elaborate procedure prescribed in the other clauses. I therefore say that we must either have clause 8 or this clause 12; if, however you want to retain clause 12, do not mention it as mere emergency provision, but give executive power to the Collector to carry out repairs and then prescribe the procedure to collect the quota from the zamindars concerned. That would be a fair way of dealing with all concerned. But to have a procedure in clause 8 and then again to assume powers for emergencies, does not seem to be fair. I suggest therefore, Sir, that this clause may safely be omitted."

The amendment was put and lost.

Clauses 12, 13 and 14 were put and carried.

Preamble.

* Mr. V. T. ARASU:—" Mr. President, Sir, I move—
‘that in the Preamble, after the word “landholders”, the words
“and which are being maintained by them” be added.’

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" If this amendment is incorporated, the Preamble would read as follows:—

' Whereas it is expedient to provide for the preservation in efficient condition of tanks belonging to landholders and which are being maintained by them and which are used by the Government as part of the Periyar system of irrigation in the Presidency of Madras.'

" Sir, it is desirable that it must be made clear that the landholders are the proprietors of the tanks and that the Government are temporarily using them for purposes of this system. Lest the proprietary rights of the landholders should go by default, as a measure of abundant precaution, this amendment is sought to be introduced."

Rao Bahadur P. C. MUTHU CHETTIYAR seconded the amendment in Tamil.

* The hon. Sir ARCHIBALD CAMPBELL:—" Sir, I must oppose the motion. If the tanks are really owned by the landholders who are maintaining these tanks, there would not be any necessity for this Bill at all. But, the difficulty is that these landholders are not maintaining these tanks in proper order."

* Mr. V. T. ARASU:—" The hon. the Revenue Member said that landholders have not been maintaining their tanks in a state of repair. This statement, I believe is made for the first time to-day."

The hon. Sir ARCHIBALD CAMPBELL:—" I have said that before."

* Mr. V. T. ARASU:—" It is nearly 38 years since the Periyar system was inaugurated. When earlier in the day I put a straight question whether the Government can quote instances in which these tanks have been neglected to such an extent as to cause danger to the Periyar irrigation system, the hon. Member said that the Government have not till now spent any money on the repair of any of these tanks. That is the straight answer that was given by the hon. the Revenue Member. I am surprised that the hon. Member should make this statement at this stage."

The amendment was put and lost.

The Preamble was put and carried.

The hon. Sir ARCHIBALD CAMPBELL:—" I beg to move that the Bill, as amended, be passed into law."

The hon. Sir MAHOMED USMAN:—" I second it, Sir."

The motion was carried and the Bill was passed into law.

VII.—REPORT OF THE MADRAS SERVICES COMMISSION, 1932-33.

* The hon. Sir ARCHIBALD CAMPBELL:—" Sir, I beg to move that the Report ^a of the Madras Services Commission for the year 1932-33, submitted with reference to section 20 of the Madras Services Commission Act, 1929 (Madras Act XI of 1929), be taken into consideration.

" I make this motion under the provision of law I have already quoted."